

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-01424-KPF**

The New York Times Company et al v. United States
Department of Justice
Assigned to: Judge Katherine Polk Failla
Cause: 05:552 Freedom of Information Act

Date Filed: 02/14/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

The New York Times Company

represented by **Alexandra Perloff-Giles**
The New York Times Company (10018)
620 Eighth Avenue
New York, NY 10018
212-556-7783
Email: aperloffgiles@nytimes.com
ATTORNEY TO BE NOTICED

David Edward McCraw
The New York Times Company (10018)
620 Eighth Avenue
New York, NY 10018
(212) 556-4031
Fax: (212) 556-1009
Email: mccraw@nytimes.com
ATTORNEY TO BE NOTICED

Plaintiff

John T. Ewing, Jr.

represented by **Alexandra Perloff-Giles**
(See above for address)
ATTORNEY TO BE NOTICED

David Edward McCraw
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

United States Department of Justice

represented by **Steven John Kochevar**
United States Attorney's Office SDNY
86 Chambers St.
New York, NY 10007
212-637-2715
Fax: 212-637-2717
Email: steven.kochevar@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Intervenor

Volkswagen AG

represented by **Robert Joseph Giuffra, Jr.**
Sullivan & Cromwell, LLP (NYC)
125 Broad Street
New York, NY 10004
212-558-3121
Email: giuffrar@sullcrom.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Andrew John Finn
Sullivan & Cromwell, LLP (NYC)
125 Broad Street
New York, NY 10004
(212) 558-4000
Fax: (212) 291-9468
Email: finna@sullcrom.com
ATTORNEY TO BE NOTICED

Suhana S. Han
Sullivan and Cromwell, LLP(NYC)
125 Broad Street
New York, NY 10004
(212) 558-4647
Fax: (212) 558-3588
Email: hans@sullcrom.com
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|----------|--|
| 02/14/2019 | <u>1</u> | COMPLAINT against United States Department of Justice. (Filing Fee \$ 400.00, Receipt Number ANYSDC-16351935) Document filed by The New York Times Company, John T. Ewing, Jr.(McCraw, David) (Entered: 02/14/2019) |
| 02/14/2019 | <u>2</u> | CIVIL COVER SHEET filed. (McCraw, David) (Entered: 02/14/2019) |
| 02/14/2019 | <u>3</u> | REQUEST FOR ISSUANCE OF SUMMONS as to United States Department of Justice, re: <u>1</u> Complaint. Document filed by John T. Ewing, Jr., The New York Times Company. (McCraw, David) (Entered: 02/14/2019) |
| 02/14/2019 | <u>4</u> | RULE 7.1 CORPORATE DISCLOSURE STATEMENT. Identifying Other Affiliate Blackrock, Inc. for The New York Times Company. Document filed by The New York Times Company.(McCraw, David) (Entered: 02/14/2019) |
| 02/15/2019 | | CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Katherine Polk Failla. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (pc) (Entered: 02/15/2019) |
| 02/15/2019 | | Magistrate Judge Sarah Netburn is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (pc) (Entered: 02/15/2019) |
| 02/15/2019 | | Case Designated ECF. (pc) (Entered: 02/15/2019) |
| 02/15/2019 | <u>5</u> | ELECTRONIC SUMMONS ISSUED as to United States Department of Justice. (pc) (Entered: 02/15/2019) |
| 02/26/2019 | <u>6</u> | NOTICE OF INITIAL PRETRIAL CONFERENCE: Initial Conference set for 5/28/2019 at 03:00 PM in Courtroom 618, 40 Centre Street, New York, NY 10007 before Judge Katherine Polk Failla. (Signed by Judge Katherine Polk Failla on 2/26/2019) (rro) (Entered: 02/26/2019) |
| 03/25/2019 | <u>7</u> | ANSWER to <u>1</u> Complaint. Document filed by United States Department of Justice.(Kochevar, Steven) (Entered: 03/25/2019) |
| 05/16/2019 | | NOTICE REGARDING INITIAL PRETRIAL CONFERENCE: An Initial Pretrial Conference is currently scheduled for May 28, 2019. Please note that since the conference was scheduled, the Court has changed its individual rules, and would like to bring the following paragraph to the parties' attention: The Court schedules initial pretrial conferences with the expectation that one or more of the parties would like an in-person opportunity to bring matters to the Court's attention, and it welcomes that |

| | | |
|------------|-----------|---|
| | | <p>opportunity. However, the Court recognizes that in certain circumstances as, for example, where the parties are in agreement about the proposed discovery schedule and have no issues to raise with the Court such conferences may represent less-efficient uses of the parties' time and resources. If the parties agree on a schedule that calls for the close of all discovery within six months, and have no other issues to raise with the Court, the parties can, if they wish, submit a Proposed Civil Case Management Plan and Scheduling Order and request in their joint letter that the initial pretrial conference be cancelled. The Court will ordinarily grant such requests. (tn) (Entered: 05/16/2019)</p> |
| 05/22/2019 | <u>8</u> | <p>JOINT LETTER addressed to Judge Katherine Polk Failla from David E. McCraw dated 05/22/2019 re: Pre-Conference Letter. Document filed by John T. Ewing, Jr., The New York Times Company.(McCraw, David) (Entered: 05/22/2019)</p> |
| 05/23/2019 | <u>9</u> | <p>MEMO ENDORSEMENT on re: <u>8</u> Letter filed by The New York Times Company, John T. Ewing, Jr. ENDORSEMENT: Application GRANTED. The parties are directed to file a status letter on or before August 9, 2019. The Initial Pretrial Conference is hereby ADJOURNED to Tuesday, August 13, 2019, at 4:30 p.m. SO ORDERED. (Initial Conference set for 8/13/2019 at 04:30 PM before Judge Katherine Polk Failla.) (Signed by Judge Katherine Polk Failla on 5/23/2019) (rro) (Entered: 05/23/2019)</p> |
| 08/09/2019 | <u>10</u> | <p>JOINT LETTER addressed to Judge Katherine Polk Failla from Steven J. Kochevar dated August 9, 2019 re: Status Letter. Document filed by United States Department of Justice.(Kochevar, Steven) (Entered: 08/09/2019)</p> |
| 08/12/2019 | <u>11</u> | <p>MEMO ENDORSEMENT on re: <u>10</u> Letter filed by United States Department of Justice, ENDORSEMENT: Application GRANTED. The Court adopts the parties' briefing schedule concerning the anticipated cross-motions for summary judgment. The initial pre-trial conference currently scheduled for August 13, 2019, is hereby ADJOURNED sine die. (Cross Motions due by 10/4/2019., Motions due by 9/6/2019., Responses due by 10/18/2019, Replies due by 11/1/2019.) (Signed by Judge Katherine Polk Failla on 8/9/2019) (rro) (Entered: 08/12/2019)</p> |
| 08/30/2019 | <u>12</u> | <p>LETTER MOTION for Extension of Time addressed to Judge Katherine Polk Failla from Steven J. Kochevar dated August 30, 2019. Document filed by United States Department of Justice.(Kochevar, Steven) (Entered: 08/30/2019)</p> |
| 09/03/2019 | <u>13</u> | <p>ORDER granting <u>12</u> Letter Motion for Extension of Time. Application GRANTED. SO ORDERED. (Signed by Judge Katherine Polk Failla on 9/3/2019) (anc) (Entered: 09/03/2019)</p> |
| 09/03/2019 | | <p>Set/Reset Deadlines: Cross Motions due by 10/18/2019. Motions due by 9/20/2019. Responses due by 11/1/2019. Replies due by 11/15/2019. (anc) (Entered: 09/03/2019)</p> |
| 09/16/2019 | <u>14</u> | <p>SECOND LETTER MOTION for Extension of Time addressed to Judge Katherine Polk Failla from Steven J. Kochevar dated September 16, 2019. Document filed by United States Department of Justice.(Kochevar, Steven) (Entered: 09/16/2019)</p> |
| 09/16/2019 | <u>15</u> | <p>ORDER granting <u>14</u> Letter Motion for Extension of Time. Application GRANTED. The Court adopts the proposed amended briefing schedule concerning the anticipated cross-motions for summary judgment. SO ORDERED. (Cross Motions due by 11/15/2019. Motions due by 10/18/2019.) (Signed by Judge Katherine Polk Failla on 9/16/19) (yv) (Entered: 09/17/2019)</p> |
| 09/16/2019 | | <p>Set/Reset Deadlines: Responses due by 11/29/2019. Replies due by 12/13/2019. (yv) (Entered: 09/17/2019)</p> |
| 09/24/2019 | <u>16</u> | <p>MOTION to Intervene <i>Unopposed</i>. Document filed by Volkswagen AG.(Giuffra, Robert) (Entered: 09/24/2019)</p> |
| 09/24/2019 | <u>17</u> | <p>MEMORANDUM OF LAW in Support re: <u>16</u> MOTION to Intervene <i>Unopposed</i>. . Document filed by Volkswagen AG. (Giuffra, Robert) (Entered: 09/24/2019)</p> |
| 09/24/2019 | <u>18</u> | <p>DECLARATION of Suhana S. Han in Support re: <u>16</u> MOTION to Intervene <i>Unopposed</i>.. Document filed by Volkswagen AG. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Han, Suhana) (Entered: 09/24/2019)</p> |

| | | |
|------------|-----------|--|
| 09/24/2019 | <u>19</u> | PROPOSED ORDER. Document filed by Volkswagen AG. Related Document Number: <u>16</u> . (Giuffra, Robert) Proposed Order to be reviewed by Clerk's Office staff. (Entered: 09/24/2019) |
| 09/24/2019 | <u>20</u> | RULE 7.1 CORPORATE DISCLOSURE STATEMENT. Identifying Corporate Parent Porsche Automobil Holding SE for Volkswagen AG. Document filed by Volkswagen AG.(Giuffra, Robert) (Entered: 09/24/2019) |
| 09/24/2019 | <u>21</u> | ANSWER to <u>1</u> Complaint. Document filed by Volkswagen AG.(Giuffra, Robert) (Entered: 09/24/2019) |
| 09/24/2019 | <u>22</u> | NOTICE OF APPEARANCE by Robert Joseph Giuffra, Jr on behalf of Volkswagen AG. (Giuffra, Robert) (Entered: 09/24/2019) |
| 09/24/2019 | <u>23</u> | NOTICE OF APPEARANCE by Suhana S. Han on behalf of Volkswagen AG. (Han, Suhana) (Entered: 09/24/2019) |
| 09/24/2019 | <u>24</u> | NOTICE OF APPEARANCE by Andrew John Finn on behalf of Volkswagen AG. (Finn, Andrew) (Entered: 09/24/2019) |
| 09/25/2019 | | ***NOTICE TO COURT REGARDING PROPOSED ORDER. Document No. <u>19</u> Proposed Order was reviewed and approved as to form. (km) (Entered: 09/25/2019) |
| 09/25/2019 | <u>25</u> | ORDER granting <u>16</u> Motion to Intervene. For these reasons, Volkswagen's unopposed motion to intervene is GRANTED. (Signed by Judge Katherine Polk Failla on 9/25/2019) (ne) (Entered: 09/25/2019) |
| 10/18/2019 | <u>26</u> | MOTION for Summary Judgment . Document filed by United States Department of Justice.(Kochevar, Steven) (Entered: 10/18/2019) |
| 10/18/2019 | <u>27</u> | MEMORANDUM OF LAW in Support re: <u>26</u> MOTION for Summary Judgment . . Document filed by United States Department of Justice. (Kochevar, Steven) (Entered: 10/18/2019) |
| 10/18/2019 | <u>28</u> | DECLARATION of Jennifer L. Blackwell in Support re: <u>26</u> MOTION for Summary Judgment .. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit 1 – Rule 11 Plea Agreement)(Kochevar, Steven) (Entered: 10/18/2019) |
| 10/18/2019 | <u>29</u> | DECLARATION of Michael A. Sullivan in Support re: <u>26</u> MOTION for Summary Judgment .. Document filed by United States Department of Justice. (Kochevar, Steven) (Entered: 10/18/2019) |
| 10/21/2019 | <u>30</u> | MOTION for Summary Judgment . Document filed by Volkswagen AG. (Attachments: # <u>1</u> Local Rule 56.1 Statement, # <u>2</u> ECF Rule 23.5 Statement, # <u>3</u> Exhibit 1 to ECF Rule 23.5 Statement)(Giuffra, Robert) (Entered: 10/21/2019) |
| 10/21/2019 | <u>31</u> | MEMORANDUM OF LAW in Support re: <u>30</u> MOTION for Summary Judgment . . Document filed by Volkswagen AG. (Giuffra, Robert) (Entered: 10/21/2019) |
| 10/21/2019 | <u>32</u> | DECLARATION of Suhana S. Han in Support re: <u>30</u> MOTION for Summary Judgment .. Document filed by Volkswagen AG. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K)(Han, Suhana) (Entered: 10/21/2019) |
| 11/06/2019 | <u>33</u> | NOTICE OF APPEARANCE by Alexandra Perloff–Giles on behalf of John T. Ewing, Jr., The New York Times Company. (Perloff–Giles, Alexandra) (Entered: 11/06/2019) |
| 11/15/2019 | <u>34</u> | CROSS MOTION for Summary Judgment . Document filed by John T. Ewing, Jr., The New York Times Company. Responses due by 11/29/2019(McCraw, David) (Entered: 11/15/2019) |
| 11/15/2019 | <u>35</u> | DECLARATION of David E. McCraw in Support re: <u>34</u> CROSS MOTION for Summary Judgment .. Document filed by John T. Ewing, Jr., The New York Times Company. (McCraw, David) (Entered: 11/15/2019) |
| 11/15/2019 | <u>36</u> | MEMORANDUM OF LAW in Support re: <u>34</u> CROSS MOTION for Summary Judgment . . Document filed by John T. Ewing, Jr., The New York Times Company. (McCraw, David) (Entered: 11/15/2019) |

| | | |
|------------|-----------|--|
| 11/20/2019 | <u>37</u> | THIRD LETTER MOTION for Extension of Time addressed to Judge Katherine Polk Failla from Steven J. Kochevar dated November 20, 2019. Document filed by United States Department of Justice.(Kochevar, Steven) (Entered: 11/20/2019) |
| 11/20/2019 | <u>38</u> | ORDER granting <u>37</u> Letter Motion for Extension of Time. APPLICATION GRANTED. SO ORDERED. (Signed by Judge Katherine Polk Failla on 11/20/2019) (kv) (Entered: 11/20/2019) |
| 11/20/2019 | | Set/Reset Deadlines: Responses due by 12/6/2019 Replies due by 12/20/2019. (kv) (Entered: 11/20/2019) |
| 11/20/2019 | <u>39</u> | FIRST LETTER MOTION for Extension of Time to File Response/Reply addressed to Judge Katherine Polk Failla from Suhana S. Han dated November 20, 2019. Document filed by Volkswagen AG.(Han, Suhana) (Entered: 11/20/2019) |
| 11/21/2019 | <u>40</u> | ORDER granting <u>39</u> Letter Motion for Extension of Time to File Response/Reply. Application GRANTED. SO ORDERED. (Signed by Judge Katherine Polk Failla on 11/20/2019) (rro) (Entered: 11/21/2019) |
| 11/21/2019 | | Set/Reset Deadlines: Responses due by 12/6/2019 Replies due by 12/20/2019. (rro) Modified on 11/21/2019 (rro). (Entered: 11/21/2019) |